

EXHIBIT D



Deposition of:
William Merklin

December 13, 2019

In the Matter of:
**Town of Hempstead v. United States of
America et al.**

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1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 Index No. 2:16-cv-03652-ENV-ST
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5 TOWN OF HEMPSTEAD,
6 Plaintiff,
7

8 -against-

9 UNITED STATES OF AMERICA, DEPARTMENT
10 OF THE NAVY, NORTHROP GRUMMAN
11 CORPORATION, NORTHROP GRUMMAN SYSTEMS
12 CORPORATION, COVESTRO LLC, BAYER
13 CORPORATION, OCCIDENTAL CHEMICAL
14 CORPORATION, THE KASPER (1977)
15 IRREVOCABLE TRUST FOR THE BENEFIT OF
16 CHARLES B. KASPER AND RICHARD J.
17 KASPER; SANDERINA R. KASPER, as Trustee
18 of the Kasper (1977) Irrevocable Trusts
19 for the Benefit of Charles B. Kasper
20 and Richard J. Kasper; MARTIN STALLER,
21 PARVIZ NEZAMI, JEROME COGAN, LAWRENCE
22 COHEN and AMERICAN DRIVE-IN CLEANERS OF
23 BETHPAGE, INC.,
24
25

Defendants.

-----x

December 13, 2019
10:15 a.m.

DEPOSITION of WILLIAM D. MERKLIN, P.E.

1 W.D. Merklin, P.E.

2 small assignments for the Commissioner,
3 but usually a project of this size would
4 be based on a specific proposal.

5 Q Looking at the last sentence
6 of paragraph 2 on the first page of
7 Exhibit 3, your expert report, it says
8 "Since PTAS is a common treatment process
9 for the removal of the detected
10 contaminants, it was determined to be the
11 best choice for implementation in this
12 case;" correct?

13 A Yes.

14 Q And who made that
15 determination?

16 A D&B.

17 Q Was there a specific
18 document that set forth an analysis in
19 determining the best choice for
20 implementation?

21 MR. FISHER: Objection. You
22 can answer.

23 A The basis of design reports.

24 Q At the time -- well, strike
25 that.

1 W.D. Merklin, P.E.

2 list or a federal list?

3 A There is a state list and
4 there's also the health department
5 monitoring requirements list that I
6 talked about earlier, which is the list
7 that we generally use.

8 Q And when you say again
9 health department, that's the Nassau
10 County Health Department; correct?

11 A Nassau County, yes.

12 Q Then the last sentence of
13 that paragraph talks about removal of a
14 well from service when the concentrations
15 is 80 percent or higher than the MCL.

16 Is that also based on the
17 industry -- unwritten industry standard
18 that you mentioned?

19 A That's based on the Nassau
20 County monitoring requirements annual
21 letter where they recommend that a well
22 is removed at 80 percent.

23 Q And it's not based on the
24 sanitary code; correct?

25 A It's not on the State

1 W.D. Merklin, P.E.

2 removal prior to commencing with this
3 project and that means they didn't
4 require any treatment for VOCs; correct?

5 A VOCs or anything else.

6 Q Now, in the third paragraph
7 in that section it talks about the three
8 wells in increasing concentrations of 1,1
9 Dichloroethane or 1,1 DCA, Freon 113 and
10 PCE observed in the wells, but those were
11 not each observed in each of the wells;
12 correct?

13 A That's right.

14 Q And they did not all have
15 increasing trends over that period; did
16 they?

17 A I don't know.

18 Q And they -- for example, 1,1
19 DCA, you can look at the numbers, I think
20 it was basically between half a part per
21 billion and 2 part per billion. Do you
22 consider that approaching the maximum
23 contaminant level of 5?

24 A No.

25 Q In the next paragraph for

1 W.D. Merklin, P.E.

2 A I don't know why.

3 Q Well, let's go with your
4 Exhibit 5 then. So there's a table that
5 has sampling results from the relative
6 wells on page 1; correct?

7 A Yes.

8 Q Do you know where those
9 results came from?

10 A They would have been
11 provided by the Town.

12 Q And it indicates that Freon
13 113 was found in well 13, but not in 7A
14 or 8A; correct?

15 A Yes.

16 Q And it doesn't indicate that
17 Trichloroethylene was found in any of the
18 wells; does it?

19 A It does not.

20 Q And, in fact, of the four
21 substances, only Freon 113 was found in
22 well 13 and the other three were only
23 found at well 7A and 8A; correct?

24 A That's correct.

25 Q Did you reach any conclusion

1 W.D. Merklin, P.E.

2 A I think it says specifically
3 originating from the Northrop Grumman
4 Systems Corporation site in Bethpage and
5 then there's an ID number.

6 Q Do you know if that includes
7 the Navy NWIRP property?

8 A I don't know.

9 Q Do you know if the Hooker
10 RUCO property adjacent to the NWIRP
11 property contributes to the OU-2 plume?

12 A I don't know.

13 Q You're not giving testimony
14 as to the specific source of contaminants
15 at the Levittown Water District wells as
16 to whether they come from the Northrup
17 Grumman property and/or the Navy,
18 adjoining Navy property and/or any other
19 property; correct?

20 A No. I'm only -- I'm only I
21 guess stating that we looked at certain
22 data and used it to make a decision for
23 the decision criteria.

24 Q You indicate on paragraph 3
25 that the Grumman site was known to exist